

PTO/SB/64 (04-07)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)		Docket Number (Optional) 61784
<p>First named Inventor: Kneecole A. Mitchell</p> <p>Application No.: 10/800,248</p> <p>Filed: 03/12/2004</p> <p>Title: Portable Tire and Wheel Lifting Apparatus</p> <p>Art Unit: 3818</p> <p>Examiner: Coolman, Vaughn T.</p>		
<p>Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450 FAX (571) 273-8300</p>		<p>06/15/2007 WASFAW1 00000058 10000248</p> <p>01 FC:2453 750.00 OP</p>
<p>NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.</p> <p>The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.</p> <p>APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION</p> <p>NOTE: A grantable petition requires the following items:</p> <ol style="list-style-type: none"> (1) Petition fee; (2) Reply and/or issue fee; (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and (4) Statement that the entire delay was unintentional. <p>1. Petition fee</p> <p><input checked="" type="checkbox"/> Small entity-fee \$ <u>750.00</u> (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Other than small entity - fee \$ _____ (37 CFR 1.17(m))</p> <p>2. Reply and/or fee</p> <p>A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):</p> <p><input type="checkbox"/> has been filed previously on _____</p> <p><input checked="" type="checkbox"/> is enclosed herewith.</p> <p>B. The issue fee and publication fee (if applicable) of \$ _____</p> <p><input type="checkbox"/> has been paid previously on _____</p> <p><input type="checkbox"/> is enclosed herewith.</p>		

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This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1460, Alexandria, VA 22313-1460. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22313-1460.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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In re the U.S. Application of)
Knecole A. Mitchell, et al.)
Serial No. 10/800,248) Group Art Unit 3618
Filed: March 12, 2004)
For: PORTABLE TIRE AND WHEEL) Examiner:
LIFTING APPARATUS) Coolman, Vaughn T.
(571) 272-6014

PETITION TO REVIVE AN UNINTENTIONALLY
ABANDONED APPLICATION

Assistant Commissioner of Patents
Alexandria, VA 22313

ATTN: EXAMINER VAN

Sir:

Pursuant to 37 C.F.R. § 1.181 and MPEP 1002.02(b)(1), the applicant requests that this application be revived from abandonment for failure to file a timely response to the Advisory Action mailed July 24, 2006 and that the enclosed Amendment in response to said office action be received and considered timely. Special attention is drawn to MPEP 711.03(c) which provides that the Office may treat an untimely petition to withdraw a holding of abandonment on its merits on the condition that the petition is accompanied by a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted thereon that would extend beyond the 20 years from the filing date of the application. Such a terminal

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disclaimer is included with the present petition and the applicant, therefore, requests that the petition be considered on its merits. Still further, the present petition is accompanied by a Request for Continued Examination, whereby the applicant requests that the accompanying amendment be entered and considered.

In summary, the applicant hereby submits (1) a Petition to Revive an Unintentionally Abandoned Application, (2) a terminal disclaimer so that the Petition is considered on its merits, (3) a Request for Continued Examination, and (4) the Amendment and response to the previous final office action. The applicant states that the entire delay was unintentional.

Statement of Facts

The present application was filed on March 12, 2004 and a First Office Action was mailed to the applicant dated November 17, 2005. Accordingly, an Amendment and response was prepared by the applicant and filed on January 24, 2005. Subsequently, a Final Office Action was mailed to the applicant dated April 6, 2006. An Amendment was prepared and filed June 29, 2006 that applicant believed would place the application into condition for allowance. However, in an Advisory Action dated July 24, 2006, the examiner refused to enter the applicant's Amendment, stating that the amendments raised new issues that would require further consideration and/or search.

On July 31, 2006, applicant's representative, Dale J. Ream, sent a letter to the applicant advising him of the contents of the Advisory Action and recommending the filing of a Request for Continued Examination (RCE) to extend prosecution and ensure entry of the Amendment. Surprisingly, the applicant did not respond to this letter. A similar follow up letter

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was sent to Mr. Russell's address in September in an effort to locate Mr. Russell before abandonment of the application. Again, there was no response. Contact was once again achieved with the applicant following official notice of abandonment of the application. The applicant's representative has now received evidence showing that the applicant underwent multiple medical events and procedures in 2006 and 2007, including emergency and inpatient care, surgery, and physical therapy. The applicant spent time in a hospital as well in a recovery facility. In speaking with the applicant's relatives, it appears that the applicant was not receiving his mail during these times. The applicant has experienced further medical complications even while gathering and supplying his representative with proof of prior medical issues. The applicant's mother has intervened on his behalf and has expressed the applicant's continuous desire to revive this application.

Issues for Review

The applicant respectfully requests that the propriety of the abandonment of the present application be reviewed by the Commissioner or the appropriate delegated authority.

Relief Requested

The applicant requests the following relief:

1. The holding of abandonment should be withdrawn and the application should be revived.
2. In conjunction with the enclosed Request for Continued Examination, the accompanying Amendment (which is a copy of the Amendment previously

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filed) should be immediately entered, considered, and acted upon by the examiner.

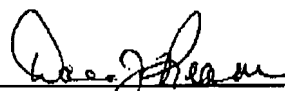
3. The Terminal Disclaimer should be entered so that this Petition may be considered on its merits and not be considered untimely.

Discussion

The applicant has demonstrated diligence both before and after Abandonment of the present application. As shown above, office actions mailed by the Patent Office to the applicant were responded to promptly and timely up until medical complications prevented the applicant's representative from communicating with the applicant. Clearly, the abandonment of the present application was never intentional. Accordingly, the applicant respectfully requests all of the relief listed above.

Respectfully Submitted,

Date: June 14, 2007


Dale J. Ream
Patent Reg. No. 45,798

HARSHAW RESEARCH, INC.

210 W. Tecumseh Street
Ottawa, KS 66067
Telephone (785) 242-9500
Facsimile (785) 242-3308

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 8300) on June 14, 2007.


Dale J. Ream, Registration No. 45,798